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IPIB AO 2016-13

September 15, 2016

SUBJECT: Iowa Association of School Business Officials Not Subject to Chapters 21 and 22

Danielle Jess Haindfield
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Dear Ms. Haindfield

This opinion is in response to your email letter of August 25, 2016, requesting an opinion from the Iowa Public Information Board (IPIB) pursuant to Iowa Code section 23.6 and rule 497—1.2. We note at the outset that IPIB's jurisdiction is limited to the application of Iowa Code chapters 21, 22, and 23, and rules in Iowa Administrative Code chapter 497. Advice in a Board opinion, if followed, constitutes a defense to a subsequent complaint based on the same facts and circumstances.

FACTUAL STATEMENT:

You request this opinion on behalf of the Iowa Association of School Business Officials (IASBO) as your law firm serves as the General Counsel for IASBO. You inform us that IASBO is an Iowa Domestic Non-Profit Corporation and is a 501(c)(3) affiliate or subgroup of the Association of School Business Officials International. You also inform us that IASBO has no debt and has never engaged in or been licensed to conduct pari-mutuel wagering under Iowa Code chapter 99D or licensed to conduct gambling games under Iowa Code chapter 99F.¹ IASBO provides programs and services through workshops, conferences, newsletters, a Web site and other related services to school business officials who are members.

QUESTION:

Is the Iowa Association of School Business Officials subject to Iowa Code chapters 21 and 22?

OPINION:

Iowa Code chapter 21 applies the open meetings laws to a "governmental body" as defined in Iowa Code section 21.2(1). Similarly, Iowa Code chapter 22 applies the open records laws to a "government body" as defined in Iowa Code section 22.1(1).

¹ In support of your factual statement you included a number of business filings.

Board Members

Anthony Gaughan • Keith Luchtel • Jo Martin • Andrew McKean • Gary Mohr • William Peard
• Suzan Stewart • Renee Twedt • Mary Unga-Sogaard

Iowa Code section 21.2(1) states:

“As used in this chapter:

1. “Governmental body” means:

- a. A board, council, commission, or other governing body expressly created by the statutes of this state or by executive order.
- b. A board, council, commission, or other governing body of a political subdivision or tax-supported district in this state.
- c. A multimembered body formally and directly created by one or more boards, councils, commissions, or other governing bodies subject to paragraphs “a” and “b” of this subsection.
- d. Those multimembered bodies to which the state board of regents or a president of a university has delegated the responsibility for the management and control of the intercollegiate athletic programs at the state universities.
- e. An advisory board, advisory commission, or task force created by the governor or the general assembly to develop and make recommendations on public policy issues.
- f. A nonprofit corporation other than a fair conducting a fair event as provided in chapter 174, whose facilities or indebtedness are supported in whole or in part with property tax revenue and which is licensed to conduct pari-mutuel wagering pursuant to chapter 99D or a nonprofit corporation which is a successor to the nonprofit corporation which built the facility.
- g. A nonprofit corporation licensed to conduct gambling games pursuant to chapter 99F.
- h. An advisory board, advisory commission, advisory committee, task force, or other body created by statute or executive order of this state or created by an executive order of a political subdivision of this state to develop and make recommendations on public policy issues.
- i. The governing body of a drainage or levee district as provided in chapter 468, including a board as defined in section 468.3, regardless of how the district is organized.
- j. An advisory board, advisory commission, advisory committee, task force, or other body created by an entity organized under chapter 28E, or by the administrator or joint board specified in a chapter 28E agreement, to develop and make recommendations on public policy issues.”

In applying this language, IASBO is not a “board, council or commission” and was not created as a “multimembered body.” It is not an “advisory body” created by the Governor, General Assembly, statute, or executive order. It is not a “district” under Iowa Code chapter 468, nor an entity created under Iowa Code chapter 28E.² Finally, although IASBO is a nonprofit corporation, it is not licensed to conduct pari-mutual wagering pursuant to Iowa Code chapter 99D or licensed to conduct gambling games under Iowa Code chapter 99F.³

As IASBO does not trigger the definition of “governmental body” in Iowa Code section 21.2(1), it is not subject to the open meetings laws in Iowa Code chapter 21.

² It also does not appear from the documents that you filed that IASBO is required to be any of these organizations or entities either.

³ See also Iowa Code section 21.11 that further supports that Iowa Code chapter 21 applies to nonprofit corporations only when dealing with gaming and gambling issues.

Turning to the issue of whether or not IASBO falls under Iowa Code chapter 22, Iowa Code section 22.1(1) states:

“1. The term “government body” means this state, or any county, city, township, school corporation, political subdivision, tax-supported district, nonprofit corporation other than a fair conducting a fair event as provided in chapter 174, whose facilities or indebtedness are supported in whole or in part with property tax revenue and which is licensed to conduct pari-mutuel wagering pursuant to chapter 99D; the governing body of a drainage or levee district as provided in chapter 468, including a board as defined in section 468.3, regardless of how the district is organized; or other entity of this state, or any branch, department, board, bureau, commission, council, committee, official, or officer of any of the foregoing or any employee delegated the responsibility for implementing the requirements of this chapter”

In applying this language, IASBO is a nonprofit corporation and not the governing body of the state, county, city, township, school political subdivision, or tax-supported district, and is not subject to Iowa Code chapter 468.⁴ Although IASBO is a nonprofit corporation, it is not licensed to conduct pari-mutuel wagering under Iowa Code chapter 99D.

As IASBO does not trigger the definition of “government body” in Iowa Code section 22.1(1), it is not subject to the open records laws in Iowa Code chapter 22.

In closing, we note that this opinion is limited to the application of Iowa Code chapters 21 and 22 to IASBO as an organization itself. In addition, we are not speaking as to whether or not some other Code provision applies to your questions.

BY DIRECTION AND VOTE OF THE BOARD

Suzan Stewart, Chair
Anthony Gaughan, Vice Chair
Keith Luchtel
Jo Martin
Andrew McKean
Gary Mohr
William Peard
Renee Twedt
Mary Unga-Sogaard

Submitted by: W. Charles Smithson, IPIB Director

⁴ It also does not appear from the documents that you filed that IASBO is required to be any of these organizations or entities either.